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For all enquiries relating to this agenda please contact Sharon Hughes
(Tel: 01443 864281 Email: hughesj@caerphilly.gov.uk)

Date: 7th June 2023

To Whom It May Concern,

A multi-locational meeting of the **Planning Committee** will be held in the Council Chamber, Penallta House, and via Microsoft Teams on **Wednesday, 14th June, 2023** at **5.00 pm** to consider the matters contained in the following agenda. You are welcome to use Welsh at the meeting, a minimum notice period of 3 working days is required should you wish to do so. A simultaneous translation will be provided on request.

Members of the public or Press may attend in person at Penallta House or may view the meeting live via the following link: <https://civico.net/caerphilly>

This meeting will be live-streamed and a recording made available to view via the Council's website, except for discussions involving confidential or exempt items. Therefore the images/audio of those individuals present and/or speaking at Planning Committee will be publicly available to all via the recording on the [Council website](#).

Interested parties may make a request to speak in regard to any item on this agenda. To obtain further details on this process please contact the Committee Clerk hughesj@caerphilly.gov.uk.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'CHarrhy', enclosed within a large, stylized, hand-drawn oval shape.

Christina Harrhy
CHIEF EXECUTIVE

A G E N D A

A greener place Man gwyrddach



1 To receive apologies for absence.

2 Declarations of Interest.

Councillors and Officers are reminded of their personal responsibility to declare any personal and/or prejudicial interest(s) in respect of any item of business on this agenda in accordance with the Local Government Act 2000, the Council's Constitution and the Code of Conduct for both Councillors and Officers.

To approve and sign the following minutes: -

3 Planning Committee held on 17th May 2023.

1 - 6

To receive and consider the following report(s): -

4 Application No. 23/0247/FULL - Unit 4, Heads Of The Valleys Industrial Estate, Rhymney.

7 - 22

5 Application No. 23/0273/FULL - Land At Grid Ref 315481 186875, Park Lane, Caerphilly.

23 - 44

6 Application No. 23/0321/COU - 161 High Street, Blackwood, NP12 1AA.

45 - 56

Circulation:

Councillors M.A. Adams, Mrs E.M. Aldworth (Vice Chair), A. Angel, R. Chapman, N. Dix, G. Ead, J.E. Fussell, A. Hussey, D. Ingram-Jones, B. Miles, M. Powell, R. Saralis (Chair), J. Taylor, S. Williams, A. Whitcombe and K. Woodland

And Appropriate Officers

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PLANNING COMMITTEE

MINUTES OF THE MULTI-LOCATIONAL MEETING HELD AT PENALLTA HOUSE AND VIA MICROSOFT TEAMS ON WEDNESDAY, 17TH MAY 2023 AT 5:00 PM

PRESENT:

Councillor R. Saralis – Chair
Councillor Mrs E. M. Aldworth – Vice Chair

Councillors:

M. A. Adams, A. Angel, R. Chapman, G. Ead, A. Hussey, D. Ingram-Jones, B. Miles,
M. Powell, J. Taylor, S. Williams and A. Whitcombe.

Cabinet Member: Councillor P. Leonard (Planning and Public Protection).

Together with:

V. Julian (Senior Lawyer), R. Kyte (Head of Regeneration and Planning), R. Thomas (Planning Services Manager), C. Powell (Team Leader Development Management), E. Rowley (Principal Planner), L. Cooper (Assistant Engineer), M. Godfrey (Team Leader - Pollution Control) and S. Hughes (Committee Services Officer).

RECORDING, FILMING AND VOTING ARRANGEMENTS

The Chair reminded those present that the meeting was being live-streamed and recorded and would be made available following the meeting via the Council's website – [Click Here to View](#). Members were advised that voting on decisions would be taken via Microsoft Forms.

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from N. Dix, J. E. Fussell and K. Woodland.

2. DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting.

3. MINUTES – 12TH APRIL 2023

It was moved and seconded that the minutes of the Planning Committee meeting held on the 12th April 2023 be agreed as a correct record. By way of Microsoft Forms (and in noting there were 11 for, 0 against and 0 abstentions) this was unanimously agreed.

RESOLVED that the minutes of the Planning Committee meeting held on 12th April 2023 (minute nos. 1-10) be approved as a correct record.

4. APPLICATION NO. 23/0059/OUT - LAND AT FORMER ALDI STORES LTD, TRE-EDWARDS, RHYMNEY

The Planning Case Officer presented the application, with it confirmed in the accompanying report that the recommendation in respect of the proposal had taken full account of, and was in conformity with, both Future Wales and Planning Policy Wales Edition 11.

Following consideration of the application it was moved and seconded that subject to the amendment of Condition 13 and the conditions contained in the Officer's report, the recommendation be approved. By way of Microsoft Forms (and in noting there were 13 for, 0 against and 0 abstentions) this was unanimously agreed.

RESOLVED that: -

- (i) Subject to the amendment of Condition 13 and the conditions contained in the Officer's report, the application be GRANTED.

Amended Condition 13

Details submitted in relation to Condition 1 of this permission shall include details to take into account the need to provide appropriate leisure facilities to meet the needs of the residents of the proposed development. Those facilities shall include areas of well-designed open space that benefit from good access and surveillance together with a suitably sized **Local Area of Play (LAP)** and shall be designed in accordance with the standards set out in Fields in Trust guidance. The development shall be carried out in accordance with the approved details and provided in accordance prior to occupation of the development.

REASON: To ensure the adequate provision of public open space in accordance with policy CW10 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- (ii) The applicant be advised to refer to Public Access on the Council's website to view the comments of the consultees that are brought to the applicant's attention that inform any future details reserved by condition and subsequent reserved matters application. Informative information is also provided.
- (iii) The applicant be advised that the developments access/off site proposals will require highway licences/agreement and no work shall be undertaken on or adjacent to the adopted highway until such have been agreed in writing and therefore it is advised that the applicant discuss requirements as soon as possible after planning permission is granted.

- (iv) The applicant be advised that the proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: [Coal Authority Policy](#).

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the [Coal Authority Website](#).

- (v) The applicant be advised that mature trees are potential bat roosts. All bat species and their roosts are protected by the Conservation of Habitats and Species Regulations 2010 and its amendment 2012, which transposes the EC Habitats Directive 1992 into UK legislation, and the Wildlife and Countryside Act 1981. If bats are discovered, then all works should stop immediately and the Countryside Council for Wales should be contacted for advice on any special precautions, and whether a licence is required, before continuing.
- (vi) The applicant be advised that works should not take place that will disturb nesting birds from March to July inclusive. All British birds (while nesting, building nests and sitting on eggs), their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. If birds are nesting on/in or within the vicinity of the proposed development, work should be undertaken outside the breeding season for birds to ensure their protection, i.e. works should only be undertaken between August and February. Further advice on the above can be sought from the local authority ecologists (01495 235253) or Natural Resources Wales (NRW) (029 20 772400).
- (vii) The applicant be advised:
WARNING:

SUSTAINABLE DRAINAGE APPROVAL IS REQUIRED PRIOR TO COMMENCEMENT OF THIS DEVELOPMENT.

Please note from the 7th January 2019, Schedule 3 of the Flood and Water Management Act 2010 commenced in Wales requiring all new developments of more than one house or where the construction area is of 100m² or more to implement sustainable drainage to manage on-site surface water. Surface water drainage systems must be designed and built in accordance with mandatory standards for sustainable drainage published by Welsh Ministers.

The Sustainable Drainage Approval process is a technical approval independent of the need to obtain planning permission, and as such you are advised to contact the Sustainable Drainage Approval Body. Their details are provided below:

Phone: 01443 866511
Email: drainage@caerphilly.gov.uk
Website: www.caerphilly.gov.uk/sab

- (viii) The applicant be advised:
NOTIFICATION OF INITIATION OF DEVELOPMENT AND DISPLAY OF NOTICE:

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties include:

Notice of initiation of development:

Before beginning any development to which this planning permission relates, notice must be given to the local planning authority in the form set out in Schedule 5A to the town and Country Planning (development Management procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details which must be given to the local planning authority to comply with this duty.

Display of Notice:

The person carrying out the development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a notice of this planning permission in the form set out in Schedule 5B to the Town and country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details the person carrying out development must display to comply with this duty.

The person carrying out the development must ensure the notice is:

- (a) Firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
- (b) legible and easily visible to the public without having to enter the site; and
- (c) printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.

The meeting closed at 5.20 pm.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 14th June 2023, they were signed by the Chair.

CHAIR

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Application Number: 23/0247/FULL

Date Received: 18.04.2023

Applicant: Ashtenne Industrial Fund Limited Partnership

Description and Location of Development: Erect B1/B2/B8 unit and associated works - Unit 4 Heads Of The Valleys Industrial Estate Rhymney

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: The application site is located on the eastern side of the internal estate road within the Heads Of The Valleys Industrial Estate, Rhymney.

Site description: A vacant site previously used as a recycling depot and measures approximately 0.99 hectares. In terms of topography, the site is generally flat but falls away beyond the north-eastern boundary towards the A469 below.

Development: Full planning permission is sought to erect a B1/B2/B8 unit and associated works.

Dimensions: The proposed building has a maximum footprint measuring 40 metres wide by 68 metres long with a maximum height measuring 11.2 metres to the eaves and 12.5 metres to the ridge.

Materials: The external finishes comprise of trapezoidal horizontal & vertical cladding panels with 'corporate blue' trims, rainwater goods, copings together with aluminium window and door frames.

Ancillary development, e.g. parking: The provision of 36 car parking spaces including 2 mobility impaired spaces, 3 motorcycle bays and a covered store to accommodate 16 cycles.

PLANNING HISTORY 2010 TO PRESENT - None.

POLICY

LOCAL DEVELOPMENT PLAN Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

Site Allocation: The application site is within settlement limits and is designated as a Secondary Employment Site, EM 2.2 Heads of the Valleys, Rhymney.

Policies: SP1 (Development Strategy - Development in the Heads of the Valleys Regeneration Area (HOVRA)), SP5 (Settlement Boundaries), SP6 (Place Making), CW2 (Amenity), CW3 (Design Considerations - Highways), CW6 (Trees, Woodland and Hedgerow Protection), CW15 (General Locational Constraints), EM2 (Employment Sites Protection) together with advice contained within LDP 4 (Trees and Development).

NATIONAL POLICY Future Wales: The National Plan 2040 (2021), Planning Policy Wales Edition 11 (2021), Technical Advice Note 12: Design (2016), Technical Advice Note 18: Transport (March 2007) and Technical Advice Note 23: Economic Development (February 2014).

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No in that the area of development does not exceed 5 hectares of industrial estate development.

Was an EIA required? Not applicable.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The site is located within a high risk coal mining legacy area, the application has been accompanied by a Coal Mining Risk Assessment and this has been reviewed by the Coal Authority.

CONSULTATION

Ecologist - No comments received.

The Coal Authority - No objection.

Transportation Engineering Manager - CCBC - No objection subject to conditions to secure parking, electric vehicle charging provision, bicycle bays, a Staff Travel Plan along with controlling appropriate turning and delivery facilities and vision splays.

Informative advice is also provided.

Environmental Health Manager - Having reviewed the contaminated land risk assessment submitted there are matters outstanding concerning ground gas monitoring and a contamination hot spot which requires mitigation. The consultant's report suggests these will be followed up, therefore no objection is raised subject to conditions.

Senior Engineer (Drainage) - Advises that Sustainable Drainage Approval is required.

Dwr Cymru - No objection, informative advice is however provided.

Waste Strategy And Operations Manager - Based on the information submitted it would appear that access to the compound appears to be good for servicing and the bin compound indicated is large enough to accommodate refuse and the implementation of recycling bins from October 2023.

Placemaking Officer - Douglas McGlyn - No comments received.

Chief Fire Officer - No objection, informative advice is however provided.

Police Architectural Liaison Officer - No comments received.

Strategic & Development Plans - No comments received.

Landscape Architect - CCBC - No objection subject to conditions.

ADVERTISEMENT

Extent of advertisement: The application was advertised in the press and by means of a site notice.

Response: None.

Summary of observations: Not applicable.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?
There are no specific crime and disorder implications material to the determination of this application.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? Based on current evidence, the proposal is unlikely to have a significant impact on biodiversity. However, Policy 9 of Future Wales - The National Plan 2040 states that action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated as part of development proposals through innovative, nature based approaches to site planning and the design of the built environment. As scheme for biodiversity enhancement will therefore be sought should members approve the proposed development.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? Yes the development is CIL liable in that more than 100 metres of new floor space is to be created however the use

of the building is charged at £0 per square metre and therefore no chargeable CIL will be collected.

ANALYSIS

Policies: The application has been considered in accordance with national planning policy and guidance, together with local plan policies. The main issues for consideration in the determination of this application are whether the proposed development would provide an appropriate site for industrial development having regard to planning policies that seek to control the location of new development; the impact of the development in design terms, the effect the development would have upon the character of the surrounding area and neighbouring amenity together with highway safety implications.

The application site is previously developed land on an existing employment site located in the Heads of the Valleys Regeneration Area (HOVRA). Policy SP1 of the Local Development Plan (LDP) states that proposals in the HOVRA will be required to promote the north of the County Borough as a tourist, employment and residential area at the heart of the valleys city region; provide appropriate forms of growth in response to the role and function of settlements; and serve to address existing problems of deprivation in order to sustain and develop communities in a manner that is consistent with the underlying principles of sustainable development. The Development Strategy for the HOVRA seeks to exploit appropriate development opportunities where they exist in the more deprived northern part of the County Borough, with a view to creating a viable future for all of the communities in this area with the Strategy seeking to accommodate new housing in villages where there is a need to diversify the housing stock in order to retain the existing population and regenerate existing communities. The Strategy also seeks to complement new housing development through the provision of new and improved employment and tourism opportunities. The erection of a new industrial building appropriately sited within the HOVRA therefore accords with Policy SP1.

The site lies within the settlement boundary identified within the Council's Adopted Local Development Plan (LDP) up to 2021. Policy SP5 (Settlement Boundaries) states that the boundaries are defined in order to define the area within which development would normally be allowed, to promote the effective use of urban land and to prevent fragmented development and inappropriate development in the countryside. The proposed development is considered to comply with Policy SP5.

Policy CW15 (General Locational Constraints) states that development proposals must not constrain the development of any adjacent site for its allocated land use and that within settlement boundaries they accord with the role and function of the settlement. In that regard this application relates to the development of a fire damaged vacant site for employment purposes on the Heads of the Valleys Industrial Estate, it is therefore considered that the proposal will not prejudice the allocated land use as an employment site.

Policy CW13 relates to new development on identified industrial estates. The Heads of the Valleys Industrial Estate (EM2.2) is identified as a Secondary Employment Site in the LDP. Policy CW13 states that development proposals on industrial estates will be subject to the following restrictions:

On sites allocated or identified as Secondary Sites, development will only be permitted if it is:

- i within use classes B1, B2 or B8
- ii an appropriate sui generis use
- iii to provide an ancillary facility or service to the primary employment use
- iv an acceptable commercial service unrelated to class B uses.

In that regard the proposed industrial unit complies with Criterion C of Policy CW13.

General development control considerations are set out in policies SP6 (Place making), CW2 (Amenity) and CW3 (Design Considerations-Highways) of the LDP.

In line with national planning policy, Policy SP6 (Place Making) requires development proposals to contribute to the creation of sustainable places by having full regard to the context of the local, natural, historic and built environment and its special features. Policy SP6 requires new development to incorporate resource efficiency and passive solar gain through layout, materials, construction techniques, water conservation and where appropriate through the use of Sustainable Urban Drainage Systems (SUDS). In that the proposed development exceeds more than 100 square metres of floor space the development will require SUDS approval. The accompanying drainage strategy and landscaping scheme indicates that the proposed drainage design maximises the use of multiple above ground, soft, SUDS features which will create habitats that are self-sustaining and resilient to climate change and link with the local natural and semi-natural species and habitats within the wider area together with retaining any existing landscaping, where possible. Those technical details will require consideration from the Sustainable Drainage Approval Body (SAB), an independent approval process outside of planning legislation.

The planning system has to play a role in making the development resilient to tackling the climate emergency through the decarbonisation of the energy system, improving air quality and the sustainable management of natural resources along with shaping the social, economic, environmental and cultural factors which determine health and which promote or impact on well-being in line with the Healthier Wales goal as part of the Well-being of Future Generations Act. In that regard the proposed development has been designed with achieving the Building Research Establishment Environmental Assessment Method (BREEAM) 'Very Good' sustainability performance rating. The building is to be constructed from responsibly sourced materials and includes the incorporation of solar photo voltaic roof panels, full height glazing and roof lights together with electric vehicle charging infrastructure.

From a placemaking perspective the surrounding area is predominately characterised by industrial units built during the late 1970's through to the early 1990's and all appear to be of a similar design and height. The proposed building would be taller in height to provide a double height entrance and stairwell to access a relatively small mezzanine first floor providing access to office rooms and toilets, however, the overall footprint would be comparative to the former industrial building on the site along with the footprints of the neighbouring units. It should also be noted that the design and roof form of the building, particularly the parapet roof would also be different to that of the existing units, nonetheless the proposed building is considered to be acceptable in terms of its siting, massing, materials and design, and will significantly improve the character and appearance of the industrial estate. The proposed development is therefore compliant with Policy SP6.

Policy CW2 relates to amenity and states that development proposals show no unacceptable impact on the amenity of adjacent properties or land; should not result in the over-development of the site; and the proposed use is compatible with surrounding land-uses. In that regard the application site is surrounded by other industrial/warehouse/commercial uses and given the distances away from the nearest residential properties, the proposed development is considered to be compatible with the surrounding land uses and would not result in any significant harm in terms of visual amenity of the surrounding area or residential amenity. Furthermore, the proposed development can accommodate the relevant levels of car parking and operational space along with providing soft landscaping areas within the site and as such is not considered to represent over-development and therefore accords with Policy CW2.

Policy CW3 Design Considerations - Highways requires development proposals to have regard for the safe, effective and efficient use of the transportation network. In that regard adequate provision has been made for parking, operational and servicing movements within the site. The Transport Assessment which accompanies the application notes that a sustainable transport strategy, driven by a Staff Travel Plan, will be provided to encourage more sustainable travel behaviours among future staff at the site. Having regard to the document it is not considered that the development will have an adverse impact on the surrounding highway network and no objection is raised by the Transportation Engineering Manager subject to the imposition of several highways conditions, including the requirement for the developer to provide a travel plan. On that basis the proposed development complies with Policy CW3.

In conclusion the proposed development accords with Policies SP6, CW2, CW3 and CW13 of the Caerphilly County Borough Local Development Plan up to 2021 - adopted November 2010.

Comments from Consultees: No objections.

Comments from public: None.

Other material considerations: None.

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

Future Wales - The National Plan 2040 was published on 24 February 2021 and forms part of the statutory development plan for the county borough. In addition to this Planning Policy Wales (PPW) has been amended to take account of Future Wales and PPW Edition 11 has also been published on 24th February 2021. In reaching the conclusion below full account has been taken of both Future Wales and PPW Edition 11 and where they are particularly pertinent to the consideration of the proposals they have been considered as part of the officer's report. It is considered that the recommendation(s) in respect of the proposals is (are) in conformity with both Future Wales and PPW Edition 11.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 02) The development shall be carried out in accordance with the following approved plans and documents:
Dwg No. HOV-LAW-X-G00-DR-A-039101 Rev P2 Site Location Plan received on 06.04.2023;
Dwg No. HOV-LAW-X-G00-DR-A-069101 Rev P4 Proposed Site Plan received on 06.04.2023;
Dwg No. HOV-LAW-X-G00-DR-A-061101 Rev P3 Proposed Floor Plans received on 06.04.2023;
Dwg No. HOV-LAW-X-X-DR-A-062100 Rev P2 Proposed Elevations - East and North received on 06.04.2023;
Dwg No. HOV-LAW-X-X-DR-A-062101 Rev P2 Proposed Elevations - South and West received on 06.04.2023;
Dwg No. HOV-LAW-X-X-DR-A-062110 Rev P2 Proposed Entrance Elevations and Materials received on 06.04.2023;
Dwg No. IN283 (632)001 External Lighting Site Wide Layout Plan received on 06.04.2023;
Dwg No. TDA.2840.01 Detailed Soft Landscape Proposals received on 06.04.2023;

Preliminary Ecological Appraisal prepared by Zebra Ecology received on 06.04.2023;

Landscape Design Statement, Specification and Management Plan prepared by TDA received on 06.04.2023;

Draft Geotechnical and Geoenvironmental Report prepared by Terrafirma received on 06.04.2023; and

Transport Assessment prepared by Vectos received on 06.04.2023.

REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

- 03) Prior to the commencement of the development a scheme shall be submitted to and agreed in writing by the Local Planning Authority to deal with the contamination of the site. That scheme shall include a ground investigation and a risk assessment to identify the extent of the contamination and the measures to be taken to avoid risk to the occupants of the development when the site is developed. The development shall be carried out in accordance with the approved scheme.
REASON: In the interests of public health.
- 04) Before any soils or hardcore that do not fall within the green category set out in Table 2 of the WLGA document 'Requirements for the Chemical Testing of Imported Materials for Various End Uses and Validation of Cover Systems 2013' are brought on to site, a scheme for their importation and testing for contamination shall be submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.
REASON: In the interests of public health and in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021.
- 05) No building approved by this permission shall be occupied or approved uses commence until a report has been submitted to and approved in writing by the Local Planning Authority which verifies that the required works have been undertaken in accordance with the remediation strategy.
REASON: To protect public health and in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021.
- 06) Both proposed means of access to and from the site shall be laid-out, constructed and maintained thereafter with vision splays of 2.4m x 25m. No obstruction or planting when mature exceeding 0.9m, above the adjacent carriageway shall be placed or allowed to grow in the required vision splay areas.
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 07) The building shall not be occupied until the area to cater for the parking and turning of delivery vehicles (including articulated vehicles) has been laid out in accordance with the submitted plans and surfaced in solid permanent materials

to the satisfaction of the Local Planning Authority. That area shall not thereafter be used for any purpose other than the parking and turning of delivery vehicles.
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 08) The building shall not be occupied until the areas indicated for the parking of staff and visitor vehicles has been laid out in accordance with the submitted plans and surfaced in solid permanent materials to the satisfaction of the Local Planning Authority. Those areas shall not thereafter be used for any purpose other than the parking of vehicles.
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 09) Prior to works commencing on site the details and location of one electric vehicle charging point to be provided within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and the charging point shall be operational with active provision prior to occupation of the building, and thereafter retained in perpetuity.
REASON: To ensure that adequate mitigation is provided in respect of air quality together with promoting sustainable modes of transport in accordance with policy CW1 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 10) Notwithstanding the submitted plans, no works shall commence until details have been submitted to and approved in writing by the Local Planning Authority which provides covered and secure cycle stands catering for 16 cycles within the curtilage of the site. Such provision shall be completed in accordance with the agreed details prior to beneficial occupation of the development and shall be maintained in perpetuity for use by staff and visitors.
REASON: To ensure that sustainable modes of travel are adequately promoted amongst staff accordance with policy CW1 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 11) Prior to works commencing on site a Staff Travel Plan shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be implemented in accordance with any timescales contained therein.
REASON: To ensure that sustainable modes of travel are adequately promoted amongst staff accordance with policy CW1 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 12) No vegetation clearance works or development shall take place until a scheme for the protection of the retained trees (section 7, BS59837, the Tree Protection Plan) has been agreed in writing with the Local Planning Authority. This scheme shall where the Local Planning Authority consider appropriate include:

- a) a plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (para. 5.2.2 of BS5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan,
- b) the details of each retained tree as required at para. 4.2.6 of BS5837 in a separate schedule,
- c) a schedule of tree works for all the retained trees in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendations for tree work,
- d) written proof of the credentials of the arboricultural contractor authorised to carry out the scheduled tree works,
- e) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837),
- f) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g., demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase,
- g) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837),
- h) the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837),
- i) the details of any changes in levels or the position of any proposed excavations within 5 metres of the Root Protection Area (RPA) (para. 5.2.2 of BS5837) of any retained tree, including those on neighbouring or nearby ground,
- j) the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g., in connection with foundations, bridging, water features, surfacing)
- k) the details of the working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the RPAs of retained trees,
- l) the details of the working methods to be employed for the installation of drives and paths within the RPAs of retained trees in accordance with the principles of "No-Dig" construction,
- m) the details of the working methods to be employed with regard to the access for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site,
- n) the details of the working methods to be employed with regard to site logistics and storage, including an allowance for slopes, water courses and enclosures, with particular regard to ground compaction and phytotoxicity,

o) the details of the method to be employed for the stationing, use and removal of site cabins within any RPA (para. 9.2.3 of BS5837),

p) the details of tree protection measures for the hard landscaping phase (sections 13 and 14 of BS5837).

q) the timing of the various phases of the works or development in the context of the tree protection measures.

The development shall thereafter be carried out in accordance with the agreed details.

REASON: In the interests of visual amenity in accordance with policies CW2 and CW6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 13) In the above condition (12) a "retained tree" is an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building or the commencement of use of the approved development for its permitted use.

a, No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998.

b, If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

REASON: In the interests of visual amenity in accordance with policies CW2 and CW6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 14) The soft landscape proposals as indicated in Dwg No. TDA.2840.01 shall be carried out in accordance with the approved details and all planting, seeding, turfing/hard landscaping works contained within the approved details shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

REASON: In the interests of the visual amenity of the area in accordance with policies CW2 and SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 15) Prior to the commencement of development, a Scheme of Ecological Enhancement Measures and a Detailed Implementation Timetable shall be submitted to and approved by the Local Planning Authority. The Ecological

Enhancement Measures shall thereafter be undertaken in accordance with the approved scheme and Implementation Timetable prior to occupation of the building and retained thereafter for lifetime of the consent.

REASON: To provide a net benefit to biodiversity in accordance with Part 1 Section 6 of the Environment (Wales) Act 2016, Policy 9 of Future Wales: The National Plan 2040 (2021), Planning Policy Wales Edition 11 (2021), Technical Advice Note 5: Nature Conservation and Planning (2009) and policies CW4 and SP10 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 16) No goods, materials, plant or machinery shall be stored outside any of the buildings on the site without the prior written agreement of the Local Planning Authority.

REASON: In the interests of the amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 17) Prior to the commencement of the development a scheme for on-site refuse storage (including any open air storage facilities) and for waste material awaiting disposal (including details of any screening) shall be submitted to and agreed in writing by the Local Planning Authority. Such facilities shall be provided in accordance with the agreed details prior to the first occupation of the development.

REASON: In the interests of public health and the amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

Advisory Note(s)

Please find below the comments of The Transportation Engineering Manager that are brought to the applicant's attention.

It should be noted that the existing access into the site does not form part of the adopted highway network; therefore, any alterations to it in terms of amended access points/dropped crossings required to facilitate proposed layout would require the consent of the landowner.

Please refer to Public Access on the Council's website to view the comments of the consultees that are brought to the applicant's attention. Informative information is also provided.

The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such

features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

WARNING:

SUSTAINABLE DRAINAGE APPROVAL IS REQUIRED PRIOR TO COMMENCEMENT OF THIS DEVELOPMENT.

Please note from the 7th January 2019, Schedule 3 of the Flood and Water Management Act 2010 commenced in Wales requiring all new developments of more than one house or where the construction area is of 100m² or more to implement sustainable drainage to manage on-site surface water. Surface water drainage systems must be designed and built in accordance with mandatory standards for sustainable drainage published by Welsh Ministers.

The Sustainable Drainage Approval process is a technical approval independent of the need to obtain planning permission, and as such you are advised to contact the Sustainable Drainage Approval Body. Their details are provided below:

Phone: 01443 866511

Email: drainage@caerphilly.gov.uk

Website: www.caerphilly.gov.uk/sab

Notification of initiation of development and display of notice:

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties include:

Notice of initiation of development:

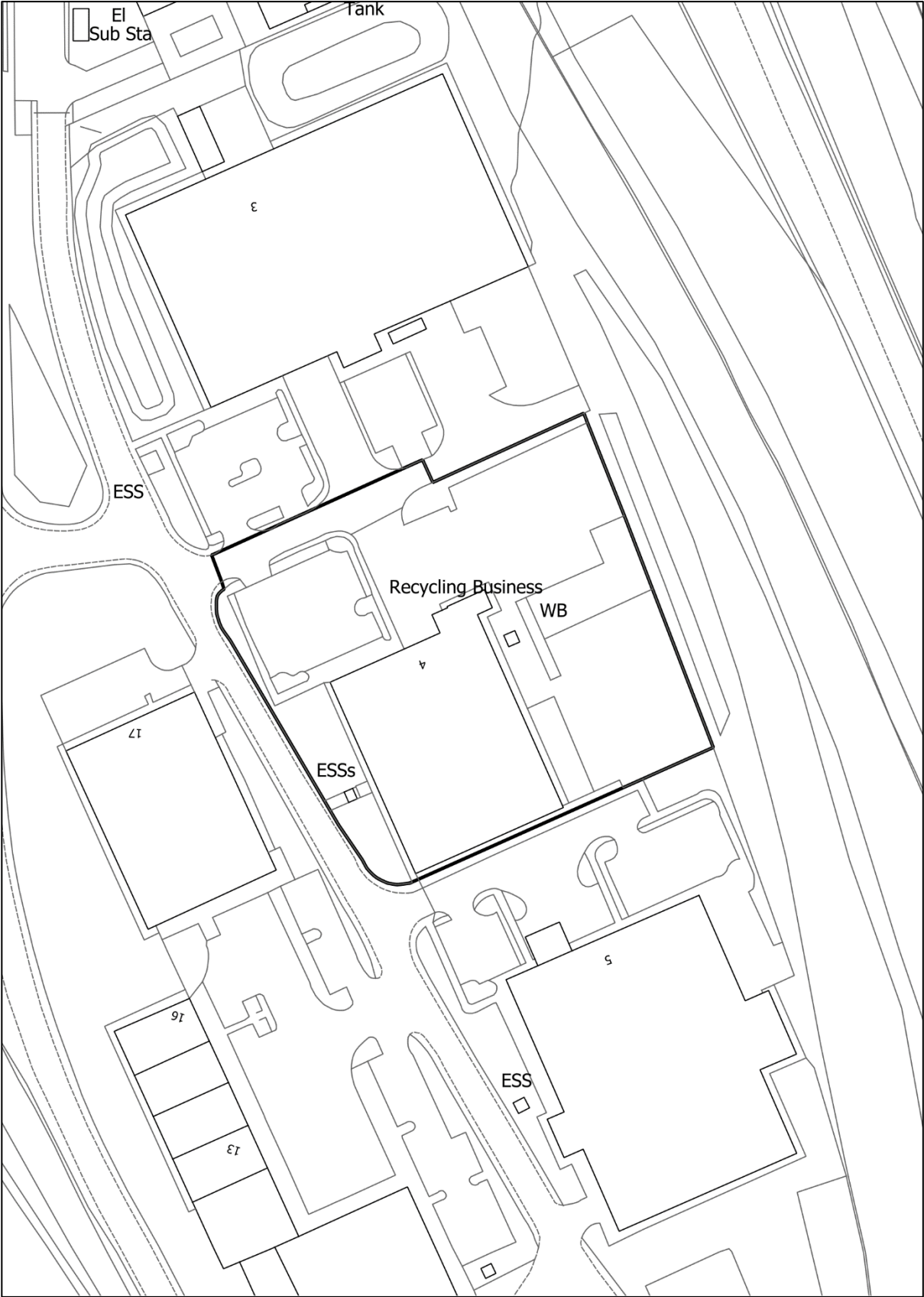
Before beginning any development to which this planning permission relates, notice must be given to the local planning authority in the form set out in Schedule 5A to the town and Country Planning (development Management procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details which must be given to the local planning authority to comply with this duty.

Display of Notice:

The person carrying out the development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a notice of this planning permission in the form set out in Schedule 5B to the Town and country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details the person carrying out development must display to comply with this duty.

The person carrying out the development must ensure the notice is:

- (a) Firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
- (b) legible and easily visible to the public without having to enter the site; and
- (c) printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.



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Application Number: 23/0273/FULL

Date Received: 27.04.2023

Applicant: Caerphilly County Borough Council

Description and Location of Development: Erect container market including outdoor seating, vehicle parking and access, bin store and drainage works - Land At Grid Ref 315481 186875 Park Lane Caerphilly

APPLICATION TYPE: Full Application

SITE AND DEVELOPMENT

Location: Land At Grid Ref 315481 186875, Park Lane, Caerphilly

Site Description: The application site comprises of a gently sloping, broadly rectangular shaped parcel of brownfield land. The boundary of the site is primarily enclosed by a green metal, bow-top fence along the boundaries of adjoining public spaces. A prominent stone wall also encloses the southwest corner and western boundary of the site, and a well established row of trees is located along the northern site boundary. Some of these trees are protected by a tree preservation order.

The site's southern boundary adjoins Park Lane with the rear boundaries of the properties of St Fagans Street located on the opposite side of the road. The northern, eastern and western boundaries of the site lie adjacent to Dafydd Williams Park, the Lloyds bank building and Caerphilly Welfare Hall respectively.

Development: Full planning permission is sought for a commercial market comprising of converted shipping containers. The proposed development would be up to two storeys in height and would provide a range of commercial units with an overall gross internal floor area of 427 square metres. The proposal would accommodate a mixture of A1 (retail), A3 (food and drink) and B1 (office/business start-up) uses.

Dimensions: The proposed individual storage container units would measure approximately 2.4m, 6m and 2.9m in depth, width and height respectively. At two storey level within the site and at the prominent corner of Park Lane and Cardiff Road, the proposed container units would measure approximately 6.5m at roof height.

Materials: Painted metal shipping containers with some clad with cementitious cladding. Other proposed materials would include aluminium windows and doors with an anthracite grey finish, expanded corten mesh to make dividing walls within the market, green roofs, a polycarbonate canopy, vertical 'hit and miss' timber cladding, first floor terraces in softwood timber decking with rebated slip resistant strips, and ground floor areas in permeable block paving and resin bound gravel.

Ancillary development, e.g. parking: Ancillary development would include terraced seating areas, outdoor space for a temporary pop-up market, W/C facilities, car parking and cycle storage provision, switchroom, store and bin store.

PLANNING HISTORY 2010 TO PRESENT

22/0884/FULL - Erect temporary container market for up to five years including outdoor seating, vehicle parking, access and associated works - Granted - 02.02.2023

POLICY

LOCAL DEVELOPMENT PLAN Caerphilly County Borough Local Development Plan (LDP) up to 2021 - Adopted November 2010

Site Allocation: The site is allocated as a principal town centre commercial development site (Policy CM4.12) and is within the Principal Town Centre Boundary (Policy CM1.5).

Policies: SP3 (Development Strategy - Development in the Southern Connections Corridor), SP4 (Settlement Strategy), SP5 (Settlement Boundaries), SP6 (Placemaking), SP10 (Conservation of Natural Heritage), SP17 (Promoting Commercial Development), CW2 (Amenity), CW3 (Design Considerations - Highways), CW4 (Natural Heritage Protection), CW6 (Trees, Woodland and Hedgerow Protection), CW15 (General Locational Constraints), CM1 (Principal Town Centre Boundaries) and CM4 Principal Town and Local Centre Development Sites.

Supplementary Planning Guidance - LDP 4 Trees and Development (January 2017);
Supplementary Planning Guidance - LDP 5 Car Parking Standards (January 2017); and
Supplementary Planning Guidance - Caerphilly Basin Masterplan (July 2018).

Future Wales - The National Plan 2040 sets out the spatial strategy for Wales for the next 20 years and provides policies that should be taken into account in the determination of applications at all levels. The following policies are considered to be relevant to the proposed commercial development: Policy 2 (Shaping Urban Growth and Regeneration - Strategic Placemaking), Policy 3 (Supporting Urban Growth and Regeneration - Public Sector Leadership), Policy 6 (Town Centre First), Policy 9 (Resilient Ecological Networks and Green Infrastructure), Policy 12 (Regional Connectivity) and Policy 33 (National Growth Area - Cardiff, Newport and the Valleys).

NATIONAL POLICY Planning Policy Wales (Edition 11, February 2021), Technical Advice Note 4: Retail and Commercial Development (November 2016), Technical Advice Note 11: Noise (1997), Technical Advice Note 12: Design (March 2016) and Technical Advice Note 24: The Historic Environment (May 2017).

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No

Was an EIA required? No

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? The site is located within a low risk coal mining area and an advisory note can be added advising the applicant/developer of this fact if planning permission were to be granted.

CONSULTATION

CADW - The proposed development is located some 30m south of the boundary of scheduled monument GM002 Caerphilly Castle.

The proposed development was granted Temporary Planning Permission (22/0884/FULL) on 2nd February 2023. The present proposal is for full planning permission and incorporates some modifications, including to details of appearance and landscaping. In essence however it remains substantially similar, and the proposed modifications introduced do not alter the conclusions arrived in relation to the original application for temporary permission: that the proposed development will result in a minor adverse but not significant impact on the setting of scheduled monument GM002.

Heritage Officer - Peter Thomas - As the proposal relates to Listed Buildings, I have had special regard to sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

I am mindful of the recent planning history and in particular application 22/0884/FULL which granted a conditional consent for a temporary container market. The current proposal seeks to make that consent permanent.

The impact of the proposal on the setting of historic assets was comprehensively considered in determining application 22/0884/FULL.

The DAS includes a Heritage Impact Assessment (HIA) which finds the proposal will have a minor negative impact on the setting of the castle through the introduction of new build development on a currently vacant site.

However, it must be noted that, the site has been developed for much of preceding 150 years. Notwithstanding the merits, or otherwise, of the now demolished buildings on the site it is an example of the changing nature of 'setting' in relation to the historic environment.

The HIA identifies that the harm will be seasonal due to the deciduous trees which screen the site from the Castle and also identifies enhanced opportunities to understand the Castle through the creation of new vantage points.

For the reasons above, I am satisfied that the proposal to make the market permanent will have no greater impact on the setting of historic assets than the extant temporary consent and, as a result, the proposal will preserve the setting of historic assets.

Placemaking Officer - Douglas McGlyn - No adverse comments received.

Senior Arboricultural Officer (Trees) - No response received.

Environmental Health Manager - No objections, provides conditions and advisory notes.

Senior Engineer (Drainage) - Confirm Sustainable Drainage (SAB) approval is required for the development.

Town Centre Manager CCBC - No response received.

Landscape Architect - CCBC - No response received.

Estates Manager - Do not wish to make any comments.

Police Architectural Liaison Officer - No response received.

Rights Of Way Officer - No objections, provides advisory information to applicant.

Chief Fire Officer - The Fire Authority has no objection to the proposed development and refers the Local Planning Authority to any current standing advice by the Fire Authority about the consultation.

Glamorgan-Gwent Archaeological Trust - No objection.

Transportation Engineering Manager - CCBC - No objection subject to conditions to address detailed highway considerations.

Waste Strategy And Operations Manager - It remains to be seen whether the bin storage compound will be large enough to accommodate all types of bins/caddies and may have to encroach into the storage area behind if necessary.

Ecologist - No response received.

Dwr Cymru - Raise no objection to the development. Advise public sewer crosses site and request planning conditions and provide advice.

ADVERTISEMENT

Extent of advertisement: The application was advertised by means of site notices and neighbour letters.

Response: Representations from 6 people have been received to the application.

Summary of observations:

A complete lack of any community engagement or consultation with the local community regarding local needs.

An unwelcoming 12ft fortress fence will be antisocial and visually unappealing. The proposal is anti-social and actively turns its back on the public domain. It introduces an incongruous and sterile facade for its length along Park Lane. It will not promote a safe and welcoming street environment.

Local Heritage and history have not been taken into account. A key example being the 13th century monument, Caerphilly Castle.

The design of the container market will mean a loss of public realm. Public realm being the space that is accessible physically, visually and culturally to the public. Public realm should be integral to any development.

Concerns over the low density seen as a lost opportunity in a location close to transport links with regard to climate change.

A continued preference for evening food and drink and ancillary businesses (i.e. hairdressers etc.) does not constitute the diverse demographic and functional mix necessary to sustain a healthy and prosperous town centre.

Provision of an alternative layout.

Public sponsored project of this nature is unnecessary given ongoing and organic regeneration efforts in Caerphilly by locally based businesses and entrepreneurs.

Potential for anti-social behaviour (including drinking) in the town and adjacent park

Raise issues of poverty and inequality in the local area. How does the project demonstrate compliance with legislation.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?

It is not considered that crime and disorder will be materially affected by the development.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? Based upon the information provided the CIL charge would be £24,470 (excluding indexation).

ANALYSIS

Policies:

The application site is located within the defined settlement boundary of Caerphilly as designated under adopted Local Development Plan Policy (SP5) within which development is normally permitted subject to the requirements of other relevant Local Development Plan policies and material planning considerations.

The application site benefits from an existing temporary planning permission (22/0884/FULL) which was approved in January 2023 and gave permission for a temporary container market for a period of upto five years. That extant permission is substantially similar to the current application (with some minor layout changes) and therefore the main consideration for this application is the impact of the development being permanent rather than just for a temporary five year period. The site is currently in development with ground works commencing under the temporary permission.

The adopted Local Development Plan indicates that the site falls within Caerphilly Town Centre boundary (Policy CM1.5) and is allocated as a principal town centre commercial development site (Policy CM4.12). Under Policy allocation CM4.12 the site allocation is "Commercial Leisure. Appendix 10 describes the site and allocation as "a central site within the town centre overlooking the famous Castle. Many of the existing buildings on this north side of the lane are either derelict or underused. Because of the prime location it is considered that this area would be an ideal place for commercial leisure development, such as restaurants and wine bars, the provision of which would enhance the town's tourism potential."

The current application will include a significant food and beverage offering akin to restaurants and wine bars as originally envisaged through Policy CM4, however reflecting the more recent trends for 'street food' which have been firmly established since the adoption of the Local Development Plan. The development would also have provision for pop up markets/traders together with retail and business elements. Examples within South Wales of other such developments include the Goodsheds in Barry. It is considered that the proposal has been designed to seek to enhance the town's tourism potential by utilising its special location and through the design offers views over Dafydd Williams Park to Caerphilly Castle with provision of seating areas including an upper terrace. It is felt that the scheme has the strong potential to add to the vitality and viability of the town centre by attracting visitors from both within and outside the county borough to the site's unique setting with the backdrop of Caerphilly Castle being a unique feature differentiating it from other similar developments elsewhere in South Wales and beyond.

The Caerphilly Basin Masterplan (CBM) was approved in July 2018 and is adopted Supplementary Planning Guidance supporting the Local Development Plan. The Masterplan has a stated vision "To develop and enhance the Caerphilly Basin as a tourist destination in its own right. Caerphilly will be a thriving, vibrant town that is well served by the Metro, with an expanded visitor and night time offer and a growing economy, set within an attractive natural environment. It will continue to be a place where businesses want to locate, develop and grow and where people want to live, work, visit and socialise. It will be a community where everyone is empowered to

participate and make a difference, where local achievements are celebrated and visitors are welcomed and residents are proud to say they are from" (paragraph 2.2 CBM).

The application site is within the area indicated within Figure 5 (Night time Opportunities) of the Masterplan for "Potential Expansion of night time economy offer" and in paragraph 6.12 (B-1 Crescent Road/Park Lane) the masterplan comments "There is an opportunity to expand the tourism offer on sites overlooking the castle, linked to Crescent Road, Dafydd Williams Park and Park Lane". The plan suggests possible uses within these areas which includes "a tourism led development on Park Lane". The site is also included in section C of the Masterplan (Maximise the presence of Caerphilly Castle). It recognises the site's potential to "create a high quality development overlooking the castle that will increase the tourism offer in the town". It is noted that the masterplan identifies the site as an opportunity for a hotel/restaurant.

Since the production of the Caerphilly Basin Masterplan and the development of the "Caerphilly Town 2035" it is understood that further feasibility work has been undertaken on the appropriate location for a hotel. A report presented to the Housing and Regeneration Scrutiny Committee in January 2023 provided the Committee with details on progress of the projects and initiatives in the "Caerphilly Town 2035" placemaking plan. In respect of the Park Lane site the report (paragraph 5.28) confirms that following the appointment of specialist hotel agents the Park Lane site was not considered large enough to accommodate the size of hotel envisaged (i.e. a quality life-style hotel of 60-80 bedrooms). In the same report it advises in paragraph 5.29 that "The preferred Hotel location identified by the specialist hotel agents is now on Cardiff Road, opposite the Castle".

It is therefore considered that the proposed A3 food and drink use would be in accordance with the LDP allocation and is considered acceptable in principle. Whilst the proposed A1 retail use would not be strictly in accordance with the LDP allocation or the "Caerphilly Basin Masterplan SPG", the site is located within the town centre which is recognised by national policy as the first choice location for retail developments (Policy 6 of Future Wales). Similarly, the proposed B1 employment use is encouraged in town centre locations where there is good access to sustainable modes of transport. In the current situation, from the report submitted to the Scrutiny Committee, all indications are that a hotel development will not be pursued on the application site and an alternative site has been identified in the Town. In policy terms the present application would therefore represent an acceptable alternative use which has the potential to bring a retail and food led tourism destination offer to Caerphilly Town in close proximity to the castle, utilising its setting.

In terms of Local Development Plan Policy SP17 (Promoting commercial development) this seeks to enhance commercial service provision and employment opportunities by, among other things, identifying commercial development sites, such as the application site, within principal town centres. The proposed mixed-use development is anticipated to provide between 40 to 50 jobs and would also enhance the diversity of commercial uses within the town centre. It is also considered that the proposed A3 food and drink

units, and associated outdoor seating areas overlooking Dafydd Williams Park and Caerphilly Castle, would enhance the tourism offer and increase the dwell-time and spend from tourists and visitors in general. This would in turn improve the vibrancy, attractiveness and viability of the town centre in accordance with the objectives for retail and commercial centres as set out in paragraph 4.3.3 of Planning Policy Wales (PPW).

With regards to visual amenity, Park Lane currently functions as both a pedestrian gateway into the town from the west and a service lane for retail units on St Fagan's Street. Due to the latter, Park Lane does not currently have an attractive street scene and lacks natural surveillance from surrounding buildings. The proposed development would introduce single storey height container units along much of the site's frontage at Park Lane incorporating an appropriate amount of fenestration and a variety of materials. It is therefore considered that the proposed development would enhance Park Lane's street scene and improve levels of natural surveillance within the immediate public realm.

At the visually prominent corner with Cardiff Road, the proposed development would step up to two storeys in height with the first-floor container units positioned in a staggered arrangement to activate the market's frontage and create a vibrant and enticing entrance. The existing buildings along Cardiff Road are typically two storeys in height and the scale and massing of the proposal at the junction with Cardiff Road is considered to be sympathetic to the existing built form. Whilst the proposed container market development is of a unique, contemporary design, it has sought to complement the adjacent Lloyds Bank building by incorporating windows into the container units of similar scale and rhythm to that of this neighbouring building. Moreover, given that the buildings along Cardiff Road exhibit a variety of architectural styles, it is considered that the proposal would make a modern, positive contribution to the character and appearance of the area. The proposed development is therefore considered to be acceptable in placemaking terms and accordingly meets the requirements of Policy SP6 (Placemaking).

In relation to the historic environment, the application site falls within the setting of a number of historic assets. These include Caerphilly Castle (Scheduled Monument and Grade I Listed Building) located approximately 30m to the north of the site at the nearest point of the designation, The Court House Public House (Grade II Listed Building) located just to the northeast of the site and the Memorial to David Williams (Grade II Listed Building) located approximately 30m to northwest of the site. Planning Policy Wales (PPW) advises that there is a statutory requirement to have special regard to the desirability of preserving the setting of a listed building (paragraph 6.1.10). Moreover, PPW states that only in exceptional circumstances should planning permission be granted for developments that have a demonstrably and unacceptably damaging effect upon the setting of a scheduled monument (paraph 6.1.24). Technical Advice Note (TAN) 24: The Historic Environment also explains that the setting of a historic asset includes the surroundings in which it is understood, experienced and appreciated embracing present and past relationships to the surrounding landscape

(paragraph 1.25). Moreover, TAN 24 goes on to state that the extent of any setting is not fixed and may change as the historic asset and its surroundings evolve.

The submitted Heritage Impact Statement (HIS) presents the findings of the assessment of the impact the proposed development on the setting of the above historic assets. The HIS states that the proposed development has the potential to have some visual and noise impacts on the setting of Caerphilly Castle; however, the level of impact is considered to be a very minor negative impact with seasonal screening provided by the band of deciduous trees located along the site's northern boundary and the fact that the proposed development would be experienced as part of the modern town of Caerphilly that has developed alongside the castle. The HIS also recognises that the proposal, with its outdoor seating areas overlooking Dafydd Williams Park and the castle, would provide a new opportunity to appreciate the special interest of the castle from a new vantage point, increasing the historic assets communal value.

In respect of The Court House Public House, whilst this Listed Building would be in close proximity to the proposed container market development, it would not be visually prominent from the application site and the elements of the Listed Building adjacent to the site do not contribute significantly to the value of the asset. Moreover, collective views of the Listed Building and the proposed development from within the park and the castle would be limited to seasonal views and any non-visual impacts, such as noise, are unlikely to be significant given the use of The Court House as a public house. On this basis, the HIS concludes that the proposal would have a neutral impact on the setting of this Listed Building.

With regards to David Williams memorial, the HIS states that there is no discernible relationship between the obelisk and the proposed development, due to the separation distance and existence of an intervening building and planting between this Listed Building and the development site. As such, the HIS concludes that the proposal does not change the special interest of the Listed Building and a neutral impact on its setting has been identified.

Both the Council's Heritage Officer and Cadw have reviewed the submitted HIS and have raised no objection to the proposed development. Cadw have advised that whilst there would be a minor adverse impact but not significant impact on the setting of Caerphilly Castle as a scheduled monument. It is therefore considered that the proposed container market development would preserve the setting of Caerphilly Castle, The Court House Public House and the David Williams Memorial. Accordingly, the proposal is considered to meet the requirements of Planning Policy Wales and Technical Advice Note 24 (The Historic Environment) in respect of this matter.

In terms of transport, the proposed container market development would provide 11 onsite parking spaces for commercial and trade use cars and vans. A single onsite disabled car parking bay would also be provided and all onsite parking spaces would be accessed via a new vehicular access off Park Lane. In addition, proposed cycle stands

providing spaces for both staff and customers would be located within the main market area to encourage active travel.

Whilst the proposed number of onsite parking spaces would be below the requirement set out in the adopted Car Parking Standards SPG, the submitted Transport Statement confirms that the application site is located within a highly sustainable location with good access to public transport and opportunities for walking and cycling. It would be in walkable distance from Caerphilly Bus and Train Interchange (circa 300m) which is anticipated to be subject to enhancements of services and facilities through the development of the South Wales Metro, electrification and related schemes. There are also 5 public car parks within a 10-minute walk of the site and the submitted Transport Addendum - Parking Survey, which considers the availability of parking spaces at the nearest car parks such as Crescent Road and the Twyn car parks, confirms that there is sufficient capacity available throughout the day and evening to accommodate the increase in car parking demand arising from the proposed development.

The proposed development incorporates appropriate servicing and operational space that would meet the needs of the proposed development. It is therefore considered that the proposal meets the requirement of Policy CW3.

The principal of the development is also supported by Policy 6 (Town Centres First) of Future Wales, the national development framework which sets the direction for development in Wales to 2040. Policy 6 of Future Wales states that "Significant new commercial, retail, education, health, leisure and public service facilities must be located within town and city centres. They should have good access by public transport to and from the whole town or city and, where appropriate, the wider region." Policy 6 also indicates that the 'Town Centre First' approach puts the health and vibrancy of towns centres as the starting point of locational decision making. In this regard the site's location within the Town Centre Boundary and within easy walking distance of a public transport interchange strongly aligns with national planning policy.

In terms of the existing ten trees along the northern boundary of the site, the submitted Arboricultural Report confirms that seven of these trees are of either high or moderate value and worthy of retention. Whilst no trees are proposed to be felled as part of the proposed development, the Arboricultural Report has identified some conflict between the Root Protection Areas (RPAs) of certain trees and the construction of proposed hard surface access and seating areas. The Arboricultural Report has, however, also confirmed that any potential damage to RPAs can be adequately managed through the installation of tree protective fencing, an arboricultural watching brief for excavation works within small parts of RPAs and the use of a No Dig Cellular confinement system (Cellweb) with permeable hard surfacing. Some branch reduction/lifting pruning work will also be required via the 'British Standard 3998:2010 tree work recommendations', but overall, the Arboricultural Report concludes that subject to the implementation of the recommended arboricultural method statement, the proposed development would not have a significant long term adverse impact on the health or amenity value of the retained trees. It is considered that subject to the implementation of the tree protection

plan and arboricultural method statement as set out within the submitted Arboricultural Report the proposed development would meet the requirements of Policy CW6.

In relation to landscaping, the submitted scheme incorporates green roofs, shrub planting along boundary edges of the development site and some additional tree planting and raised planters within the main container market area of the site. Elements of this soft landscaping would also function as part of the sustainable drainage scheme for the proposed development (e.g., rainwater gardens) and a variety of permeable hard surfaces would also be utilised. These sustainable drainage features would convey water runoff to a below ground cellular storage system prior to controlled discharge to a highway drain located to the north of the site. A separate sustainable drainage approval will, however, be required for the proposed development.

With regards to ecology, the submitted Preliminary Ecological Appraisal (PEA) concludes that the application site has a low ecological value, with potential impacts on a range of protected species ranging from no impact to a low impact. Whilst the PEA identifies a potential moderate impact for bats, the associated Bat Survey (BS) confirms that no evidence of bats roosting in trees adjacent to the site was found during the time of the survey. As such, the BS concludes that the impact of the proposed development on bats would be negligible.

It is also considered that the recommended mitigation and biodiversity enhancement measures contained within the PEA and BS can be secured by including these documents under an approved plans and documents condition as will be the case with the arboricultural report mention earlier in the report. As such, it is considered that the proposed container market development would not have an unacceptable impact on protected or local species at the site. Accordingly, the proposed development meets the requirements of Policies SP10 (Conservation of the Natural Heritage) and CW4 (Natural Heritage Protection).

In relation to residential amenity, the rear gardens of residential properties at St Fagan's Street back on to the western part of the application site, which would accommodate the proposed parking and service areas for the proposed container market development. As such, the residential amenity of the occupiers of these neighbouring properties would not be adversely affected by the proposed two storey container units located further to east by means of overlooking, overshadowing or overbearing. The ground floor premises of properties opposite the eastern corner of the site at Cardiff Road are commercial in nature, but there appears to be a first floor flat above No. 29 Cardiff Road. The proposed two storey container units would not, however, be directly opposite the first-floor windows of this neighbouring flat, and it is considered that the separation distances together with the oblique angles between existing and proposed windows would prevent any unacceptable loss of privacy or overshadowing and overbearing impacts and a planning condition is imposed to agree boundary treatments which can include suitable screening as required to ensure no unacceptable overlooking from elevated walkways.

The proposed container market development also has the potential to affect amenity as result of noise impacts. As such, a Noise Assessment (NA) has been submitted which, among other things, considers associated plant/equipment noise impacts on nearby residential and commercial receptors. The Noise Assessment concludes that subject to the incorporation of appropriate plant/equipment noise attenuation, the proposed development would not have an adverse impact on residential and commercial receptors. It is considered that the exact details of noise control measures for plant/equipment can be secured via condition.

Other noise sources which can affect residential amenity, such as delivery vehicles, patrons using the market and background music, are difficult to quantify. Such impacts can, however, be appropriately managed through the imposition of conditions which control delivery and market opening times. Such conditions are considered necessary in this instance, and it is noted that the Environmental Health Manager has raised no objection to the proposed development subject to the imposition of appropriate noise related conditions. It is therefore considered that any noise impacts resulting from the proposed container market development can be adequately controlled by condition and would not give rise to unacceptable levels of noise and disturbance to nearby residential or commercial receptors. Accordingly, the proposed development would meet the requirements of Policy CW2 (criterion A) in relation to safeguarding the amenity of adjacent properties.

With regards to air quality, the submitted Air Quality Screening Assessment (AQSA) states that annual concentrations of pollutants are likely to be below relevant air quality limits at the development site and the impact of the proposed development's operational traffic would not exceed the threshold for a detailed air quality assessment to be undertaken. The AQSA also indicates that the implementation of dust mitigation measures during construction works would sufficiently safeguard local air quality, while the installation of odour abatement measures at proposed container food sales units would adequately mitigate odour impacts on nearby sensitive receptors. Both dust and odour mitigation measures can be adequately secured via condition, and it is considered that the proposed development meets the requirements of policy SP6 (criterion H) in relation to air quality matters.

Whilst the Council's Environmental Health Manager is satisfied with the findings and recommendations of the AQSA, air quality improvements measures, such as the installation of electric vehicle charging points, have been recommended. It is also noted that Policy 12 of Future Wales requires planning authorities to seek a minimum of 10% of car parking spaces to have electric vehicle charging points on new non-residential developments. It is noted that the scrutiny report referred to earlier in this report has indicated that two electric vehicle charging points are to be provided in the traders' car park. As air quality concerns have not been identified, it is not considered justified to secure electrical vehicle charging points via a planning condition in this instance, however the Environmental Health Manager's comments will be provided to the applicant.

Comments from Consultees:

In relation to Dwr Cymru's response it is noted that the sewer referred to is within the public highway and the site circumstances have not materially altered since the earlier permission. It is considered appropriate to provide the comments of Dwr Cymru to the applicant for information.

Comments from public:

A complete lack of any community engagement or consultation with the local community regarding local needs.

The development is not of a scale requiring a mandatory pre-application consultation and whilst encouraged through Supplementary Planning Guidance community engagement or consultation on local needs is not required for the planning process.

An unwelcoming 12ft fortress fence will be antisocial and visually unappealing. The proposal is anti-social and actively turns its back on the public domain. It introduces an incongruous and sterile facade for its length along Park Lane. It will not promote a safe and welcoming street environment.

It is noted that the vast majority of the boundary to Park Lane (circa 64m) has either 1.8m high boundary enclosures or utilises the side elevation of shipping containers (with windows present to add interest and/or natural surveillance) which would be approximately 2.9m high. Where the development reaches towards the eastern end and where it comes to meet Cardiff Road there will be an increase in height to two storey with some fencing/cladding and a staggered arrangement of shipping containers at first floor level which have large glazed windows fronting Cardiff Road and provide interest over and around the main entrance to the development. The development is arranged around a courtyard style layout however it provides a welcoming entrance from the existing developed town centre shopping area and therefore it is not considered to be exclusionary or otherwise antisocial to the town or its inhabitants. The existing southern side of Park Lane is dominated by rear service areas, parking, garages and walls to rear amenity areas along with the vacant land forming the application site which is fenced off from use. The development is envisaged to add interest to the street scene through the fenestration present on Park Lane drawing people along to the main entrance (and also to the other businesses on Cardiff Road). The proposed development is considered to have an acceptable visual impact on the character of the area.

Local Heritage and history have not been taken into account. A key example being the 13th century monument, Caerphilly Castle.

The scheme will provide opportunities for views of the castle particularly from the first floor seating area and the development has been considered by both the Council's Placemaking and Conservation Officer and the Welsh Government Conservation Body CADW. It is noted that CADW have raised no objection to the development and it's

impact on Castle and it considers that the impact of the development is limited to that of the setting of the castle as a scheduled monument and this impact will be minor adverse but not significant in impacts. It is considered that any minor adverse impact on the setting of the castle would be extremely limited and the economic benefits of the scheme outweigh this matter.

The design of the container market will mean a loss of public realm. Public realm being the space that is accessible physically, visually and culturally to the public. Public realm should be integral to any development.

The majority of the application site was previously comprised of buildings and their associated servicing/parking areas and has been fenced off following the demolition of most of the previous buildings. It is therefore not considered that the land could be considered as public realm and the proposed development will utilise land within the town centre for compatible uses likely to be beneficial in terms of accessing services and goods within a central location.

Concerns over the low density seen as a lost opportunity in a location close to transport links with regard to climate change.

The proposal is considered to bring a range of uses onto a previously developed but currently vacant parcel of land. In terms of intensification the efficient use of land is required to be balanced with a need to ensure the setting of historic assets such as Caerphilly Castle are not significantly impacted. The proposal is considered acceptable in terms of its scale and form.

A continued preference for evening food and drink and ancillary businesses (i.e. hairdressers etc.) does not constitute the diverse demographic and functional mix necessary to sustain a healthy and prosperous town centre.

The proposed development will contain a mixture of Class A1 (Retail Uses), Class A3 (Food and Drink uses) and Class B1 (B1 Business/Light Industrial Uses acceptable within a residential area) and as such is considered to have a range of uses which could help sustain a healthy and prosperous town centre.

Provision of an alternative layout.

Whilst it is appreciated that developments can take a number of forms the Local Planning Authority has considered the submitted planning application on its merits and the submitted layout and the design/layout has been found to be acceptable.

Public sponsored project of this nature is unnecessary given ongoing and organic regeneration efforts in Caerphilly by locally based businesses and entrepreneurs.

This is the opinion of the objector.

Potential for anti-social behaviour (including drinking) in the town and adjacent park

The development would be required to obtain necessary licences for serving alcohol and hours of opening have been proposed to be controlled by condition. The site lies within the existing defined Town Centre boundary and it is considered that existing town centre management operations can manage and coordinate any issues that may arise.

Raise issues of poverty and inequality in the local area. How does the project demonstrate compliance with legislation.

The development will provide opportunity for businesses in Caerphilly with expected related opportunities for employment opportunities contributing to a prosperous, more equal, vibrant culture and resilient Wales with potential within the development for flexible 'market style' events which could be used to promote Welsh culture and arts/crafts as examples. This aligns with many well-being goals of the Well-being of Future Generations (Wales) Act 2015.

Concerns raised about the proposal in respect of national and local planning policy and guidance

The principle of the development was considered under the earlier temporary consent and found acceptable, having reviewed the proposal it is considered that the provision of a substantially similar form of development on a permanent basis would accord with all relevant national and local planning policy and guidance.

Other material considerations:

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

Future Wales - The National Plan 2040 was published on 24 February 2021 and forms part of the statutory development plan for the county borough. In addition to this Planning Policy Wales (PPW) has been amended to take account of Future Wales and PPW Edition 11 has also been published on 24th February 2021. In reaching the conclusion below full account has been taken of both Future Wales and PPW Edition 11 and where they are particularly pertinent to the consideration of the proposals they have been considered as part of the officer's report. It is considered that the recommendation(s) in respect of the proposals is (are) in conformity with both Future Wales and PPW Edition 11.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

- 02) The development shall be carried out in accordance with the following approved plans and documents:
 - Site Location Plan, Drawing No. 09000 (Rev. P48);
 - Proposed Site Plan, Drawing No. X-09001 (Rev. P55);
 - Landscape GA Plan, Drawing No. L-09001 (Rev. P55);
 - Soft Landscaping Plan, Drawing No. 09140 (Rev P55);
 - Hard Landscaping and External Furniture, Drawing No. 09160 (Rev P55);
 - Fencing and Site Security Plan, Drawing No. 09180 (Rev. P55)
 - Planning Floor Plans - Level 00, Drawing No. 01000 (Rev. P48), received 23/01/23;
 - Planning Floor Plans - Level 01, Drawing No. 01001 (Rev. P55);
 - Roof Level Plan, Drawing No. 01002 (Rev. P55);
 - Proposed Site Elevations, Drawing No. 02000 (Rev. P48);
 - Proposed Elevations, Drawing No. 020001 (Rev. P48);
 - Arboricultural Report (including Tree Survey Data, Tree Constraints Plan, Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement), Project Ref. ArbTS_1454.7_Caerphilly Market Place Project, Prepared by ArbTS - Arboricultural Technician Services Ltd, dated 11/10/22;
 - Planning Statement - Ecology PEA and Bat Survey, Job No. 286344-00, Prepared by Sylvan Ecology for Arup, dated 11/10/22; and
 - Planning Statement - Lighting, Job No. 286344-00, Prepared by Arup, dated 05/10/22.

- 03) The development shall not be brought into beneficial use until the area indicated for the parking of vehicles has been laid out in accordance with the submitted plans and that area shall not thereafter be used for any purpose other than the parking of vehicles.
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 04) The development hereby approved shall not be occupied until the means of vehicular access has been constructed in accordance with the approved plans.
REASON: In the interests of highway safety in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 05) Notwithstanding the details forming part of the submitted plans, the development shall not be occupied until covered and secure cycle parking facilities have been provided in accordance with a scheme that shall have been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development is accessible by all modes of transport in the interests of sustainability in accordance with policy CW3 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 06) Within 3 months of the date of this permission or prior to their construction/installation (whichever is the sooner) details of the scale, design and materials for the switch room, store and bin store buildings shall be submitted to and agreed in writing by the Local Planning Authority. The buildings shall be completed in accordance with the approved details before the development is brought into beneficial use.

REASON: In the interests of the visual amenity of the area in accordance with policy SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 07) Prior to the construction of the external surfaces of the development hereby approved details of the materials to be used, in electronic or printed format shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: In the interests of the visual amenity of the area.

- 08) Notwithstanding the details forming part of the submitted plans, within 3 months of the date of this permission or prior to their construction/installation (whichever is the sooner) a scheme shall be submitted to and agreed in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment (and any screening required) to be erected. The boundary treatment and where applicable screening shall be completed in accordance with the approved details before the development is brought into beneficial use.

Reason: In the interests of the residential and visual amenities of the area in accordance with policies CW2 and SP6 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 09) The development hereby approved shall not be brought into beneficial use until a scheme has been submitted to and approved in writing by the Local Planning Authority for the control of noise emanating from the container unit(s) and associated plant and equipment. The noise control measures as approved shall be implemented prior to the first occupation of the container unit to which they relate and shall thereafter be operated in accordance with the approved scheme.

REASON: In the interests of the amenities of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 10) The development hereby approved shall not be brought into beneficial use until a scheme has been submitted to and approved in writing by the Local Planning Authority for the control of odour/effluvia/fume control, including the erection of any associated stacks or vents. The odour/effluvia/fume control measures as approved shall be implemented prior to the first occupation of the container unit

to which they relate and shall thereafter be operated in accordance with the approved scheme.

REASON: In the interests of the amenities of the area accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

- 11) The use hereby permitted shall not be open to customers outside the following times: (a) 07.00 hours to midnight Monday to Saturday, and (b) 07.00 hours to 23.00 hours Sunday.
REASON: In the interests of residential amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 12) No deliveries shall be taken at or dispatched from the site outside the hours of 07:00-18:00 Monday - Saturday and 10:00-16:00 on Sunday.
REASON: In the interests of residential amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 13) The construction of the development hereby approved shall be undertaken in accordance with the approved Construction Method Statement submitted and approved under application 23/0241/COND.
REASON: In the interests of amenity in accordance with Policy CW2 of the Caerphilly County Borough Local Development Plan up to 2021- Adopted November 2010.

Advisory Note(s)

Please find attached the comments of Dwr Cymru, Chief Fire Officer, The Council's Environmental Health Officer, Rights of Way Officer, Land Drainage Officer that are brought to the applicant's attention.

WARNING:

SUSTAINABLE DRAINAGE APPROVAL IS REQUIRED PRIOR TO COMMENCEMENT OF THIS DEVELOPMENT.

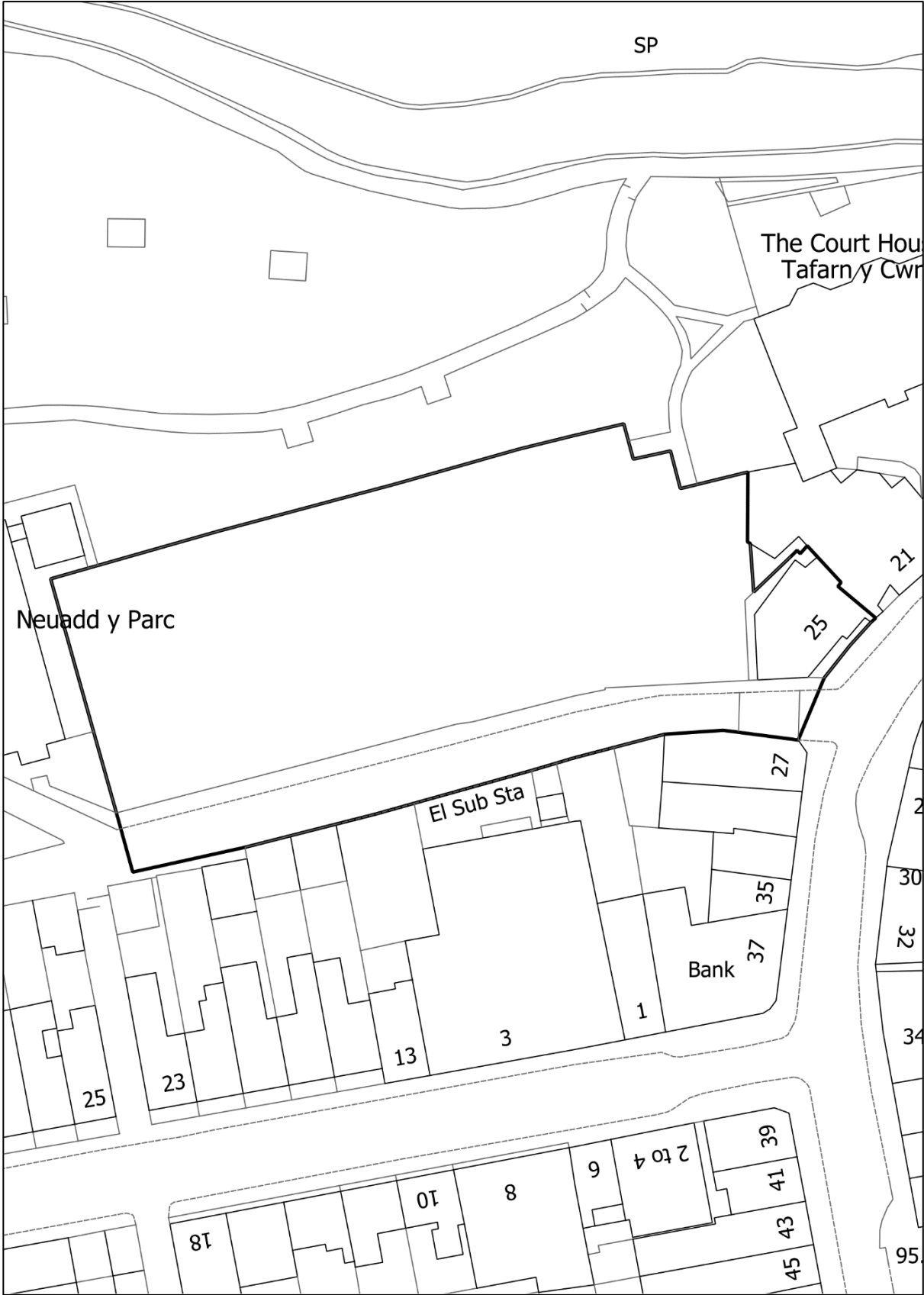
Please note from the 7th January 2019, Schedule 3 of the Flood and Water Management Act 2010 commenced in Wales requiring all new developments of more than one house or where the construction area is of 100m² or more to implement sustainable drainage to manage on-site surface water. Surface water drainage systems must be designed and built in accordance with mandatory standards for sustainable drainage published by Welsh Ministers.

The Sustainable Drainage Approval process is a technical approval independent of the need to obtain planning permission, and as such you are advised to contact the Sustainable Drainage Approval Body. Their details are provided below:

Phone: 01443 866511

Email: drainage@caerphilly.gov.uk
Website: www.caerphilly.gov.uk/sab

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Application Number: 23/0321/COU

Date Received: 12.05.2023

Applicant: Rhymney Brewery Ltd

Description and Location of Development: Change the use and convert former Shoezone into A3 usage including the provision of traditional shop front, internal alterations and rear smoking area - 161 High Street Blackwood NP12 1AA

APPLICATION TYPE: Change of Use

SITE AND DEVELOPMENT

Location: The application site is at 161 High Street, Blackwood.

Site description: The site is a vacant A1 use unit. The unit appears single storey and flat roofed from High Street, however at the rear, the property drops down to a basement level. The basement level can be accessed via a rear lane. Internally, the ground floor is largely open, with a single rear room containing a staircase to the basement level. The basement level also appears to be open, with no internal rooms. Externally, the front elevation consists of a dilapidated shop front, with blue framed aluminium windows and doors. To the rear, the building is finished in red facing brick work and has a small single storey projection with a flat roof.

Development: The proposed development is to change the use of the building, from A1 to A3, to be used as a drinking establishment. The majority of the works proposed are internal, which would consist of the installation of a bar and fixed seating around the northern internal wall. It would also include the installation of toilets, a beer cellar and a dry store. Externally, the shop front would be renewed. The front elevation would consist of the main entrance being located at the southern end of the elevation, with the remainder of the elevation being largely glazed. Signage would be installed above the glazing, along with decorative pilasters. To the rear, a smoking area would be provided by utilising the roof of the single storey projection as a roof terrace. A uPVC clad balustrade would be erected around the outer edges of the flat roof. The south and east elevations would remain open.

Dimensions: The rear balustrade would be 1.1 metres in height.

Materials: The front elevation would be finished with a low rendered wall, and timber framed glazing above. The door would be timber. The rear alterations would consist of uPVC cladding to the terrace.

Ancillary development, e.g. parking: None.

PLANNING HISTORY 2010 TO PRESENT

19/0269/FULL - Retain part existing retail unit and convert/change the use to its rear into 1 No. studio apartments and the construction of a new storey at roof level to provide 2 No. one bed apartments - Granted - 13.12.2019.

POLICY

LOCAL DEVELOPMENT PLAN The Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

Site Allocation: The site is located within settlement limits.

Policies: SP2 (Development Strategy - Development in the Northern Connections Corridor (NCC), SP4 (Settlement Strategy), SP5 (Settlement Boundaries), SP6 (Place Making), CW2 (Amenity), CW3 (Design Considerations: Highways), CW14 (Use Class Restrictions - Retail), CW15 (General Locational Constraints), and advice contained within LDP5: Car Parking Standards, LDP6: Building Better Places and LDP12: Shop Fronts and Advertisements.

NATIONAL POLICY Future Wales: The National Plan (February 2021), Planning Policy Wales Edition 11 (February 2021), Technical Advice Note 4: Retail and Commercial Development (November 2016), Technical Advice Note 12: Design (March 2016), Technical Advice Note 18: Transport (March 2007) and Technical Advice Note 23: Economic Development (February 2014).

ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? No.

Was an EIA required? Not applicable.

COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Not applicable given the nature of the application.

CONSULTATION

Environmental Health Manager - No objection, subject to the following conditions:

The use hereby permitted shall not operate outside the following times:

- (a) 08.00 hours to 00:00 Monday to Thursday
- (b) 08:00 hours to 01:00 hours Friday and Saturday
- (c) 08:00 hours to 00:00 on Sunday.

REASON: In the interests of residential amenity.

The use hereby permitted shall not be open to customers outside the following times:

- (a) 11.00 hours to 23:00 Monday to Thursday
- (b) 11.00 hours to 00.00 hours Friday and Saturday
- (c) 11:00 hours to 23:00 on Sunday.

REASON: In the interests of residential amenity.

The use of the beer garden area of the premises is not permitted after 22:00. Other than access solely for the use of a smoking area. The smoking area shall not exceed the capacity of 6 persons at any one time post 22:00.

REASON: Amenity of the area.

Unless otherwise agreed in writing with the local planning authority, prior to the commencement of the use hereby approved arrangements for the storage, collection and disposal of commercial waste shall be implemented in accordance with a scheme to be agreed in writing with the local planning authority.

REASON: In the interest of public health

Further conditions maybe added in terms of extraction equipment. The applicant is also advised to get in contact with the CCBC Food/Health & Safety team for advice when in operation

Transportation Engineering Manager - CCBC - No objection.

ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and nine neighbours were notified by way of letter.

Response: Two letters of objection were received.

Summary of observations: The letters of objection can be summarised into the following points:

1. No employee toilets are detailed.
2. Insufficient customer toilets are provided.
3. Insufficient mix of toilets, i.e. male, female, non-gendered.
4. An enclosed smoking area is proposed, which is illegal.
5. Fire doors detailed do not meet Building Regulations.
6. Unacceptable levels of noise will be generated.
7. No allocated parking is provided, leading to traffic offences.
8. Anti-social behaviour concerns.
9. Litter concerns.
10. Opening hours and delivery hours are not acceptable.

SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?

There are no specific crime and disorder implications material to the determination of this application.

EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? Yes, the development is CIL liable. As the development results in new A3 floor space, this is charged at £25 per sqm, plus indexation.

ANALYSIS

Policies: The application has been considered in accordance with national policy and guidance, local plan policy and supplementary planning guidance. The application seeks to change the use of 161 High Street within the Principal Town Centre Boundary of Blackwood. The main issues for consideration in the determination of this application are whether the principle of the resultant change of use within the town centre is acceptable; its impact in terms of visual and residential amenity; and the impact on highway safety.

Strategic Policy SP6 of the Local Development Plan (LDP) sets out criteria relating to place making, notably that development should seek an appropriate mix in respect of the role and function of its settlement and realise the efficient use of land. The site is located within the Northern Connections Corridor (NCC) and within the defined settlement boundary of Blackwood with the development proposal providing the opportunity to provide a differing commercial element to the ground floor of the building. Therefore the presumption is in favour of development providing material planning considerations do not indicate otherwise.

Policy CW14 (Use Class Restrictions - Retail) of the Local Development Plan (LDP) states that that changes of use of the ground floors of A1 retail premises to other uses will only be permitted where the commercial vacancy rate of the centre has been over 10% for over a year. In that respect the commercial vacancy rate in Blackwood town centre at the time of the most recent survey (2022), was 12.1%, with it being 13.2% the year before. As such, the vacancy rate has been in excess of 10% for over a year. Therefore, the provisions of Policy CW14 allow for the change of use of the property from A1 to A3.

Notwithstanding the above, a recent appeal decision (reference: APP/K6920/A/20/3257883) for a change of use proposal within a different town centre in the borough with a much lower vacancy rate, the Inspector concluded:

"Whilst I can understand that a lower vacancy rate may justify the retention of A1 uses, on its own, it is not indicative of the robustness of a town centre to small changes. For example, there may be a greater tolerance for alternative uses, especially where they complement, and do not dominate, the primary retail function...I have no doubt that the COVID pandemic is having some impact but current vacancy levels and the balance and mix of uses in the town centre do not appear to be having any significant effect on its predominant retail character and function. In these circumstances, the proposed change of use would not lead to any fundamental change to the status quo."

In assessing development proposals within defined centres, Local Planning Authorities should assess retail and commercial centre performance and their overall vitality and viability. This is further explained in Paragraph 4.3.36 of Planning Policy Wales (PPW) which outlines that where premises have been vacant for some time and may undermine a centre's vitality and viability "planning authorities should consider how non-A1 uses may play a greater role to increasing diversity and reducing vacancy levels.

This is further reinforced by Technical Advice Note (TAN) 23: Economic Development where it addresses High Level Planning Objectives and considerations that the Local Planning Authority should have regard to in respect of market signals and respective demands.

On that basis it is not considered that a reduced floor area of retail space (A1) and the introduction of an A3 commercial use would be contrary to Policy CW14 or National policy and guidance, or be detrimental to the commercial viability of Blackwood Town Centre.

In terms of the visual impact of the proposed development, the existing scale and form of the building will not alter, whilst the proposed design alterations to the external elevations are considered to enhance the character of the building. The proposed external alterations include the renewing of the front elevation, with a timber framed, largely glazed shop front. The main door would be located at the southern edge of the front elevation. The styling and use of materials are of a traditional nature and would not look out of place within the town centre setting. The rear elevation includes the addition of a first floor terrace, to be used as a smoking area. The terrace would be located atop an existing single storey flat roof projection. The terrace would have a white uPVC timber clad balustrade erected around its edge. The south and east elevation would remain open. The design of the rear terrace is considered to be acceptable and would not appear out of place in its setting. As such, the proposed alterations are considered to comply with criterion B of Policy SP6.

Policy CW2 (Amenity) states that development proposals must have regard for all relevant material planning considerations in order to satisfy the following requirements:

- A. There is no unacceptable impact on the amenity of adjacent properties or land.
- B. The proposal would not result in over-development of the site and/or its surroundings.
- C. The proposed use is compatible with surrounding land-uses and would not constrain the development of neighbouring sites for their identified land-use.

D.Where applicable, the viability of existing neighbouring land uses would not be compromised by virtue of their potential impact upon the amenity of proposed new residential development.

The proposed development introduces an A3 use, for a drinking establishment, which would inevitably have longer and later opening hours than a typical A1 use. However, further to consultation with the Environmental Health Manager, no objection have been raised to the use subject to a number of conditions relating to opening hours.

In this respect whilst the suggested conditions relating to the hours of operation i.e. 8am-12am Sunday to Thursday, 1pm close Friday and Saturday, are considered reasonable given the context, the more restricted hours recommended for use by customers have been discussed with the applicant who has raised concerns regarding the impact of such restrictions on the viability of the business. Notwithstanding this it should be recognised that the site falls within Blackwood High Street with adjacent public houses having later opening hours controlled by License conditions (e.g. Moggridge 2.30am close and New Foresters 2.00 am close on weekends). In addition to this, there is no first floor residential element to the host building and the nearest residential properties to the rear are at a considerably lower level and in excess of 60 metres from the application site separated by a public car park and mature trees. As such, it is not considered that, subject to the control on operating hours referenced above that the use would have a detrimental impact on neighbour amenity. A condition has also been added to ensure that the smoking area to the rear is used for smoking only and not as a beer garden after 22:00, in order to reduce the impact of customers congregating and drinking within this area late at night. The control of the number of people using the area is considered onerous and difficult to manage and enforce but as it represents a small area in any event, the suggested condition is considered sufficient to protect residential amenity given the context.

It is not clear if any extraction, or plant, is required in conjunction with the use, however a condition can be added to the decision requiring the submission and approval of any such apparatus.

Turning the consideration to the impact on the amenity of adjacent land, the proposal would bring a vacant unit back into use, as well as replacing the deteriorating shop front. Based on the above, the proposed development would be compliant with criterion A of Policy CW2.

Policy CW2 also seeks to ensure that proposals do not result in an overdevelopment of the site and should be compatible with surrounding land uses. It is considered that in this instance, the development would not constitute an overdevelopment, and is compatible with the surrounding land uses, which are primarily A1, A2 and A3 uses.

Given the above, the proposed development is compliant with the criteria outlined in Policy CW2.

Policy CW3 states development proposals must satisfy the following highways requirements:

A.The proposal has regard for the safe, effective, and efficient use of the transportation network.

B.The proposal ensures that new access roads within development proposals are designed to a standard that:

- i.Promotes the interests of pedestrians, cyclists and public transport before that of the private car, and
- ii. Safely and effectively accommodates the scale and nature of traffic, which those roads are intended to serve.

C.Parking, appropriate servicing and operational space have been provided in accordance with the CSS Wales Parking Standards 2008.

D.Where access onto a highway is required the proposal takes account of the restrictions relevant to the class of road as designated in the road hierarchy ensuring movements and speeds are controlled through appropriate design, in order to ensure highway safety and amenity.

Consultation with the Council's Transportation Engineering Manager was undertaken, in which no objection was raised. The site is well served by public transport and there is a large amount of car parking available through public and private car parks within the town centre vicinity. In that respect, there are no concerns in terms of highway safety and the proposal is compliant with Policy CW3.

In conclusion, the change of use of the building from A1, to A3, is considered to be acceptable as it complies with the requirements of criterion A of Policy CW14, whereby Blackwood Town Centre has a commercial vacancy rate in excess of 10% for over a year. The impact on neighbouring amenity can be appropriately managed by condition. The proposed development is considered to contribute to the socio-economic function of Blackwood Principal Town Centre and would not have an unacceptable impact upon highway safety. The proposal therefore complies with policies SP6, CW2, CW3 and CW14 of the Caerphilly County Borough Local Development Plan up to 2021 - adopted November 2010.

Comments from public: The following is provided in response to the objections raised:

1. No employee toilets are detailed. - This is not a material planning consideration.
2. Insufficient customer toilets are provided. - This is not a material planning consideration.
3. Insufficient mix of toilets, i.e. male, female, non-gendered. - This is not a material planning consideration.
4. An enclosed smoking area is proposed, which is illegal. - This rear smoking area is not fully enclosed, only a safety balustrade.
5. Fire doors detailed do not meet Building Regulations. - This is not a material planning consideration.
6. Unacceptable levels of noise will be generated. - The Environmental Health Manager has not objected, the full assessment related to noise is in the above report.

7. No allocated parking is provided, leading to traffic offences. - The Transportation Engineering Manager has not objected, the full assessment is in the above report.
8. Anti-social behaviour concerns. - It is not considered that an application of this type within a Town Centre would give rise to unacceptable impacts in planning terms. Anti-social behaviour is a matter to be addressed by other agencies.
9. Litter concerns. - This is not a material planning consideration.
10. Opening hours and delivery hours are not acceptable. - Appropriate opening hours have been outlined in the above report and will be imposed as conditions.

Other material considerations: None.

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

Future Wales - The National Plan 2040 was published on 24 February 2021 and forms part of the statutory development plan for the county borough. In addition to this Planning Policy Wales (PPW) has been amended to take account of Future Wales and PPW Edition 11 has also been published on 24th February 2021. In reaching the conclusion below full account has been taken of both Future Wales and PPW Edition 11 and where they are particularly pertinent to the consideration of the proposals they have been considered as part of the officer's report. It is considered that the recommendation(s) in respect of the proposals is (are) in conformity with both Future Wales and PPW Edition 11.

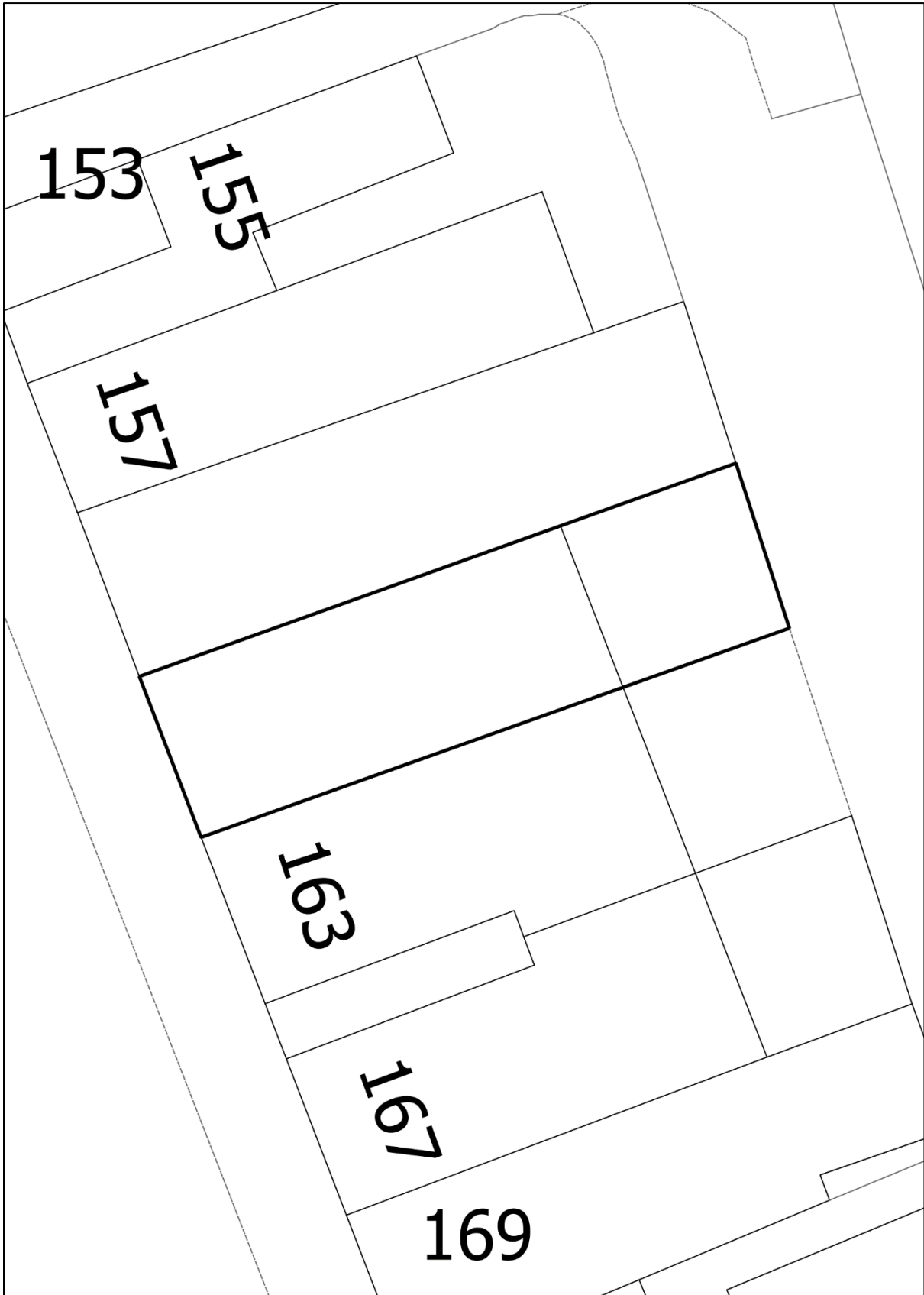
RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 02) The development shall be carried out in accordance with the following approved plans and documents:
Dwg No. Site Location Plan received on the 11.05.2023;
Dwg No. 2 - Proposed Floor Plans received on the 11.05.2023; and
Dwg No. Existing and Proposed Elevations received on the 11.05.2023.
REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

- 03) Prior to development commencing on site, if required, details of all external and roof mounted plant/machinery associated with the application shall be submitted to and agreed in writing with the Local Planning authority. These details shall include the location of the plant and predicted noise levels (measured as a LAeq 1 hour) as measured on the boundary of the application site. Thereafter these agreed details shall be fully installed prior to the use of each of the units commencing.
REASON: In the interests of the amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 04) Prior to the commencement of the use hereby approved, arrangements for the storage, collection and disposal of waste and recycling shall be implemented in accordance with a scheme to be agreed in writing with the Local Planning Authority.
REASON: In the interests of the amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 05) Prior to the commencement of the development hereby approved a scheme of odour/effluvia/fume control, including the erection of any associated stacks or vents, shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be carried out and operated in accordance with the approved scheme.
REASON: In the interests of the amenity of the area in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 06) The use hereby permitted shall not operate outside the following times:
(a) 08.00 hours to 00.00 Monday to Thursday;
(b) 08.00 hours to 01.00 hours Friday and Saturday; and
(c) 08.00 hours to 00.00 on Sunday.
REASON: In the interests of residential amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.
- 07) The smoking area associated with the use hereby permitted, as indicated on Drawing No. 02 - Proposed Floor Plans received 11.05.2023, shall be used as a smoking area only after 22:00 and shall not be used as a beer garden after 22:00 on any day.
REASON: In the interests of residential amenity in accordance with policy CW2 of the adopted Caerphilly County Borough Local Development Plan up to 2021.

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